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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,128	10/29/2003	Martha A. Dempsey	13277-4	7241
33772	7590	01/14/2005	EXAMINER	
MCDONALD HOPKINS CO., LPA 2100 BANK ONE CENTER 600 SUPERIOR AVENUE, E. CLEVELAND, OH 44114-2653			STERLING, AMY JO	
		ART UNIT		PAPER NUMBER
				3632

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

<b>Application No.</b> 10/696,128  <b>Examiner</b> Amy J. Sterling	<b>Applicant(s)</b> DEMPSEY, MARTHA A.	
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*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 10 December 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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## DETAILED ACTION

This is the **Final Office Action** for application number 10/696,128 Product Display, filed on 10/29/03. Claims 1-20 are pending. This **Final Office Action** is in response to applicant's reply dated 12/10/04. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

### ***Claim Rejections - 35 USC § 102***

Claims 1-11 and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 1053112 to Scott.

The patent to Scott discloses a holder for goods having a front panel (9), with an opening, a bottom panel (15) connected to the front panel (9), a back panel (17) connected to the bottom panel and extending toward the front panel, the front panel (9) having a brace section (13<sup>1</sup>, 13<sup>2</sup>, 14) connected to the back panel and connected to the front panel along the edge of the opening and capable of contacting the front panel below the opening (at C) and the brace section including a flap (13<sup>1</sup>), which extends downwardly from the brace section, the flap which provides a biasing force on the good when in the holder. Scott also teaches wherein the back panel includes at least one notch and the brace section includes a support tab (14), which are releasably engageable to each other to connect the brace section to the back panel.

An elongated sheet having first (11), second (12) and third and fourth transverse score lines (on flaps 13<sup>1</sup>, 13<sup>2</sup>), the first score line being bent to form a front and bottom panel, the second score line being bent to form a rear panel and the third and fourth score lines being bent to form a brace and a flap, wherein the brace section being bent on the third score line defines an opening in the front panel.

Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4383782 to Pillifant, Jr.

Pillifant, Jr. a goods holder (54) having a front panel (77) with an opening, a bottom panel (75) connected to the front panel, a back panel (76) connected to the bottom panel and the front panel, a flap (136) extending from the bottom panel upward toward the front panel which will provide a biasing force of displayed goods and capable of contacting the front panel below the opening.

### ***Response to Arguments***

The applicant has argued that Scott does not disclose all of the elements of claim 1 in that it does not show a brace section with a flap as two separate elements. This is unpersuasive in that the brace section includes the flaps and the support tab, the flaps being an element of the brace section.

The applicant has argued the flap as taught by Scott does not have a biasing force on the goods, when the goods are in the holder. This is unpersuasive in that the

flap (13) as taught by Scott is biased against back panel (17) which in turn biases the front panel (9) which will provide a biasing force on goods placed in the holder.

The applicant has argued the flap as taught by Pillifant, Jr. does not have a biasing force on the goods, when the goods are in the holder. This is unpersuasive in that the flap (136) biases the front panel (76) which would bias goods (82) to be in an upright position.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be

reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
12/27/04



RAMON O. RAMIREZ  
PRIMARY EXAMINER